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**Appeal Brief following NOTICE OF APPEAL FROM THE
EXAMINER TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)
50083

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Signature Sue ShaperTyped or printed Name Sue Shaper

In re Application of Sanford

#16 Appeal Brief

Application Number
09/698,553Filed
10/27/2000

For CASHLESS GAMING SYSTEM

M. Brunson
7/16/03

Group Art Unit 2876

Examiner
Daniel St. Cyr

TECHNOLOGY CENTER 2876

MAY 27 2003

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Applicant hereby files its **appeal brief, in triplicate, with attachments**, to the Board of Patent Appeals and Interferences from the last decision of the examiner.

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- Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____.
- A check in the amount of the fee is enclosed.
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- applicant/inventor.
- assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- attorney or agent of record.
- attorney or agent acting under 37 CFR 1.34(a). Registration number if acting under 37 CFR 1.34(a). _____.

Sue Z. Shaper

Typed or printed name

5/16/03

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Sanford, Kirk

Application No.: 09/698,553

Filed: 10/27/2000

Title: CASHLESS GAMING SYSTEM

Attorney Docket No.: 50083

Assistant Commissioner for Patents
Washington, D.C. 20231



Appeal Number:

Group Art Unit:
2876

Examiner:
Daniel St. Cyr

Appeal Brief

Real Party In Interest

The real party in interest should include Global Cash Access.

Related Appeals and Interferences

There are no known related appeals and/or interferences.

Status of the Claims

Thirty claims are pending, are rejected and are appealed. The independent claims are: 1 (method); 8 (apparatus); 14 (apparatus); 24 (method); and 26 (method). The intervening dependent claims depend upon the preceding independent claim.

Status of the Amendments

All amendments are entered.

Summary of the Invention

The instant invention discloses a novel way to interface between the commercial electronic funds transfer (EFT) systems (e.g. the debit and credit card processing systems) and POS devices associated with a gaming machines in locations such as a casino. The invention introduces the elements of "Host Processor" (preferably off-site) and "Active Layer" (preferably on-site). In addition to other functioning, a "host processor" can assist functioning by reimbursing a casino directly and becoming a creditor on the transaction.

In addition to other functioning, an active layer can assist functioning by prescreening player requests for EFT, with prescreening being governed by concerns ranging from responsible gaming to localized fraud. Specifically, the invention discloses an entertainment machine, such as a slot machine, located at an institution like a casino and associated with a point of sale (POS) device. The entertainment machine and POS are in communication with an active layer computer. The active layer computer is in communication with an intermediate host processor server. The host processor server is in communication with financial institutions via ATM-type networks. Preferably, the active layer computer is located at the casino while the intermediate host processor server is located off site. A player requests electronic funds to be made available from his/her account through the POS device associated with the gaming machine. As a novel feature, the active layer computer can prescreen, or “profile”, or “transaction profile”, a request for a first level approval/disapproval. The active layer forwards the request, preferably only if approved, to the intermediate host processor which initiates a traditional merchant inquiry for approval or preauthorization at the relevant financial institution. Assuming a positive response from the financial institution, the intermediate host processor can instigate the electronic transferring of the funds to the entertainment machine and/or the player. As another novel feature, the intermediate host processor may reimburse the funds directly to the gaming establishment and itself become a creditor of the player’s bank.

(Specification, page 2)

More specifically, as illustrated in Figure 1, a system in accordance with the present invention preferably includes a plurality of entertainment machines 10 (illustrated as slot machines) and associated POS devices 20 in communication with an “active layer” computer and server 12 and an intermediate host server 13. The system is in communication with a financial institution 14. (Spec. p. 2) To illustrate a preferred embodiment, when a user at an entertainment machine wants funds, he/she enters his/her request, such as for example with a debit card, into a POS device associated with the entertainment machine. This request is transmitted to the active layer computer where, as a novel feature, a number of functions can be performed, typically prior to the submission of the request for funds to the host processor system. The functions can include, for example, history lookup, player tracking, responsible gaming exclusion, fraud screening, terminal management and relevant parameters. (Spec. pp. 2-3)

Preferably only if the active layer approves the request, based upon the above-mentioned profiling, is the request forwarded to host processor 13. The host processor undertakes to make the usual merchant's approval or preauthorization inquiry at financial institution 14 over the ATM-type networks in order to determine, for example, if the user has sufficient funds and/or credit in his/her account at the financial institution and/or to ensure that the player has not exceeded the financial institution's daily limit for POS and/or ATM withdrawals. (It should be appreciated that the commercial networks may also do their own fraud checks.)

If the financial institution authorizes the withdrawal, the host processor signals the active layer that the transaction has been approved. The active layer then, in a primary embodiment, sends two signals, one to the POS device associated with the entertainment machine to indicate the approval to the user and the other to the slot accounting system 11. The slot accounting system then can signal the gaming machine to register the player's funds that have been requested, i.e., credits the machine for the user. (Note: the user can decide to immediately cash them out of the machine.) In an alternative embodiment, the POS device signals the player to go to a cashier's cage to retrieve the requested funds. Additionally, the active layer may instruct a cashier to bring the funds to the player at the machine. (Spec. p. 3)

Preferably, as another novel feature, it is the intermediate host processor that receives the funds from the bank via the ATM-type network by requesting an electronic transfer of the funds from the player's bank to an account of the host processor. The host processor intermittently, e.g. in the evening, can settle with a casino by crediting an account of the casino with the accumulated funds processed by the host processor pursuant to the players' requests approved since the host processor last settled with the casino. (Spec. p. 3)

Thus, the POS device, the active layer, host system and the ATM-type network are all intermediaries between the entertainment machine and the bank. Such permits, preferably, the active layer to prescreen requests and decide if they should be further processed based on profiling. Preferably only if the active layer clears the request is it forwarded to the host system. Such also permits, upon approval, the host system to become a creditor (of the player's bank) from the time the use of the funds at the machine is authorized until the host processor actually collects the funds from the bank via the network. (Spec. p. 3)

At least two features in the instant invention are regarded as novel in the gaming environment:

- (1) prescreening or profiling a request for electronic funds (associated with a gaming machine) by an “active layer computer”, in addition to, and preferably prior to, inquiring as to the usual financial approval or preauthorization of the request through the financial channels; and
- (2) having an intermediate host processor assume the role of “merchant” for the casinos vis-a-vis the EFT financial networks, by becoming a creditor with respect to the transaction.

Issues

- (1) Whether all claims are obvious under 35 USC 103(a) over Crevelt in view of Von Kohorn.

Sub-issues

(a) Whether it is sufficient, or proper, as the examiner asserts, to “include” Von Kohorn’s “credit limit information” into Crevelt’s “users’ preset conditions” in order to arrive at the subject matter of independent claims 1, 8 and 26; or whether, rather: to arrive at the subject matter of claim 1, one would not have to significantly modify Crevelt to reach applicant’s step 7; to arrive at the subject matter of claim 8, one would not have to add both the functionality and the structure of applicant’s “wherein element” “means clause”; and to arrive at the subject matter of claim 26, one would not have to significantly modify Crevelt in terms of structure and function to Crevelt to reach applicant’s step 2, all significant changes in structure and function to Crevelt, going far beyond a mere “including” of Von Kohorn’s “credit limit information” and in fact running contrary to the teachings of Crevelt and contrary to Crevelt’s solution of his problem.

(b) Whether making Crevelt’s system “more controllable, more attractive to the general public and more practical” (generic nonspecific motivation) suggests or provides sufficient motivation to modify Crevelt and go contrary to the thrust of Crevelt’s teachings in order to reach applicant’s invention; or rather, whether the specific motivation to significantly and inappropriately modify Crevelt is derived from the instant application itself?

(c) Whether a *prima facie* case with regard to independent claims 14 and 24 can even be argued to have been made, since the last element of each claim (e.g. “the host processor including means for transmitting host funds to an account associated with the

POS device" /or/ "transmitting host processor funds to an account associated with the entertainment machine") has not been identified in the references by the examiner?

Grouping of Claims

Claims 1 and 3 - 7, for the purposes of this appeal, will be argued together and will be regarded as standing or falling together. (Claim 1 will be treated as representative.)

Claim 2 can stand with the above claims but does not fall together with claims 1 and 3 – 7, and thus it will be argued separately.

Claims 8 and 13 will be argued together, but separately from the above; they have analogies with claims 1 – 7 but can stand or fall separately. (Claim 8 will be treated as representative.)

Claims 9, 10, 11 and 12 stand with claim 8 but do not fall with claim 8, or with each other; each thus will be argued separately.

Claims 14 - 23 will be regarded to stand or fall together for the purposes of this appeal. (Claim 14 will be treated as representative.)

Claims 24 and 25 have analogies with claim 14 but can stand or fall independently; claim 25 stands with claim 24 but falls separately; each thus will be argued separately.

Claim 26 stands or falls separately and will be argued separately.

Claims 27, 28, 29 and 30, similar to claims 9 – 12 above, stand with claim 26 but fall separately, from the above and from each other; each will be argued separately.

Notwithstanding standing or falling together, there are several issues that generally apply to multiple claims. Therefore, these issues in general will be discussed first.

Argument

All claims are rejected as obvious over Crevelt in view of Von Kohorn. A short summary of both references and a general discussion of issues follows. Subsequently, the individual claims will be analyzed, presuming the prior discussion as a basis.

Short Summary of References and General Discussion of Issues

Crevelt

Crevelt recaps and summarizes the state of the art of providing electronic funds transfer (EFT) at gaming machines:

"The present invention relates to methods and apparatus for controlling monetary transactions on gaming machines. More particularly, the invention relates to systems employing electronic funds transfer systems directly coupled to gaming machines for the purpose of obtaining playing credit. (Col.1, lines 7 – 11)

* * * * *

More recently, it has been proposed to provide casino gaming machines with the electronics for Electronic Funds Transfer ("EFT") processing. Such systems were initially proposed by Crevelt in "Slot Machine Mania" pp. 225-226, Gollehon Books, Grand Rapids, Mich. (1988, 1989). The same general systems were later described in U.S. Pat. No. 5,038,022 issued to Lucero. Such references propose systems in which a player simply inserts his or her credit or debit card into a card reader on a gaming machine, enters his or her personal identification number ("PIN") on a keyboard, and then requests a desired amount of funds to be transferred from his or her remote financial institution to the local gaming machine. The requested funds transfer would then be approved by the institution, transferred to the gaming machine, and converted to credit to play that machine.

As contemplated by Lucero, this system would result in higher revenues for casinos, as gaming machine players would be able to remain at a given machine for an extended period of time without visiting a cashier or ATM machine. (Col. 1, line 65 – Col. 2, line 17)

Crevelt next notes a problem with providing for player access to EFT at a gaming machine.

While this [higher revenues for casinos] may be true, it unfortunately means that a small minority of susceptible individuals will tend to financially over extend themselves. Allowing such individuals to have direct and easy access to their entire bank accounts could, under certain circumstances, be financially ruinous. Thus, the system proposed by Lucero likely would be unpalatable to at least some legislatures which regulate gaming.

Thus, there exists a need for an EFT system that allows cashless transfers of funds to gaming machines and yet protects against rash decisions by some players to divert large amounts of their savings to gaming. (Col. 2, lines 18-28)

Crevelt then discloses his solution to the problem.

The present invention fills this need [above referenced] by providing a gaming machine with an apparatus necessary to send "limited" fund requests to and receive authorizations from an EFT system. Specifically, all such requests for funds are limited to a preset amount. Thus, if a player uses an EFT transfer to obtain playing credit, that credit would be limited to the preset amount. For example, if a player is playing a quarter slot machine, the preset credit may be twenty dollars, while if the player is playing a dollar slot machine, the preset credit may be one hundred dollars. In practice, the player will insert his or her ATM

card (debit card), key in a PIN number, request playing credit, and receive the preset amount of such credit. **The player will not be given the opportunity to select an amount of playing credit other than the preset amount.** Thus, the player is unlikely to financially overextend himself or herself when playing a gaming machine of this invention because there is a conscious decision made each time more funds are required to continue game play once a player has used up previously credited amounts. (Col. 1, lines 31-49)

Finally, Crevelt mentions an alternative in which a casino attendant, in response to some condition, could adjust the preset limit at the machine.

In one alternative embodiment, the casino attendant could set or adjust the preset limit in response to some condition. For example, if the player meets specified credit criteria, the attendant could adjust the preset limit in response to the player's request. In such embodiment, the player still will not have the option of keying in or otherwise adjusting the preset amount of credit at the gaming machine.” (Col. 6, lines 22-38)

Discussion of Crevelt and Comparison with the Instant Invention

Crevelt is directly addressed to one problem that the instant invention also covers, efficient “cashless” gaming without excessive temptation to become financially overextended. However, Crevelt teaches a different solution to that problem than applicant. And, there is no teaching or suggestion in Crevelt that Crevelt’s solution (operating with “preset limits” set into the machine) is inadequate, and/or in need of being changed to applicant’s invention.

Notwithstanding a possible casino attendant intervention, Crevelt teaches that “the player still will not have the option of keying in or otherwise adjusting the present amount of credit of the gaming machine”. The “preset amount” limitation is key to Crevelt’s solution to the problem. “Automating the casino attendant”, (which is not, by the way, taught by Von Kohorn) would dilute the effectiveness of the “preset amount” solution, dilute it to an extent that its effect could be negligible, (and still yet such automation does not fully arrive at the elements of the claims of applicant’s invention). Crevelt, thus, teaches away from automating the casino attendant, away from possibly disallowing a player any EFT. Crevelt can be said to teach away from applicant’s invention.

Crevelt's solution to the problem of rash decisions relies upon a "cooling off" methodology, upon requiring discrete "conscious decisions" each time a "preset amount" of funds are requested. This slows, interrupts and segments the process of allowing "direct and easy access to an entire bank account." Automating the "casino attendant", as well as disallowing any EFT, both run counter to Crevelt's solution.

Note that the "host processor becoming a creditor", a limitation of independent claims 14 and 24, is not disclosed by Crevelt, nor alleged to be disclosed there by the examiner. Thus, the efficient handling of the crediting and debiting processes whereby a host processor can become a creditor in the system is not even addressed by Crevelt, or the examiner.

Examiner's Position on Crevelt

In regard to the similarity and the dissimilarities and of the teachings of Crevelt to all claims, the examiner recites:

"Crevelt et al disclose a preset amount electronic funds transfer system for gaming machines comprising: associating a point of sale device (card reader having slot therein) with the entertainment device 28, 30, 32; placing the entertainment machine and the POS in communication with an "active layer" 54 [Crevelt's Transaction Processor 54]; placing the active layer in communication to a "host processor" 56 [Crevelt's EFT Host 56]; placing the host processor [sic: in communication with] a financial institution (see Col. 7, line 65 to Col. 8, line 6); requesting electronic funds via the point of sale device (see Col. 9, lines 20-23); forwarding the request to the active layer (see Col. 8, lines 42-61); **profiling the request for either approving or disapproving the request (see Col. 6, line 33+)**; and providing electronic funds to the user if the request is approved. Regarding how the fund is collected the approval of the fund falls within the engineering design choice failing to provide any unexpected results, which there, obvious (see figures 1 and 2, Col. 9, line 1+)

Crevelt et al disclose that an attendant could set to adjust the preset limit in response to some preset condition, but fail to disclose or fairly suggest that the request is profiling by the active layer."

Discussion of the Examiner's Position

First, there is a strained nature of the examiner's attempt to create similarities between applicant's claims and Crevelt's system. Crevelt's alleged "**profiling the request for either approving or disapproving the request (see Col. 6, line 33+)**" can only refer to "the casino attendant setting or adjusting the preset limit in response to some

condition." To highlight the differences between Crevelt and applicant's claim, this step in Crevelt (1) must be prior to the step of "requesting electronic funds" itself; (2) it is not performed by the "active layer" but by a casino attendant (which the examiner admits); (3) it is not a profiling of "a request for electronic funds" but rather of "a request to adjust a preset limit" in the hardware/software of the machine; and (4) it presumes a personal modification, by a casino attendant, to the hardware/software of the gaming machine.

Thus, while the examiner admits that Crevelt "fails to disclose or fairly suggest that the request is profiled by the active layer," the examiner should also admit that Crevelt fails to disclose or fairly suggest profiling of "a request for electronic funds" rather than, prior to any request for electronic funds transfer, profiling "a request to adjust preset limits". Crevelt depends on an adjustment to be made in the hardware/software of the gaming machine prior to any request for electronic funds being made via the POS.

Second, so modifying Crevelt runs contrary to Crevelt's solution to his problem.

Third, Crevelt teaches no in-house mechanism to completely turn down a player's EFT request itself.

Von Kohorn

Profiling a request for electronic funds by an active layer, in addition to the normal credit authorization, is a novel feature of the instant invention. Its omission in a reference is to be expected. Von Kohorn, as we shall see, does not supply this element, found missing from Crevelt, much less any suggestion or motivation to so modify Crevelt.

From Von Kohorn:

"The **central facility** may be connected to the remote stations and to a credit agency by means of a telephone network which permits verification of a player's line of credit, and a charging of lottery fees against a preestablished credit limit. (Col. 7, lines 16-28 and 33-37)

The invention is applicable to the conducting of a large variety of games of chance including lotteries wherein players can participate in their homes and obtain entry tickets, such as in the form of the card 362, by way of example, directly in their homes... (Col. 96, lines 9-15)

FIG. 29 shows the use of the central telephone facility 702 in conjunction with the switchboard 622 to provide a convenient method of paying for one's wagers without leaving the home. By **means of prior arrangement with the telephone facility 702**, a player at any one of the playing stations 260 is provided with a personal identification number (PIN) which is readily entered via pushbuttons on a telephone to identify the player to the telephone company. The PIN number securely identifies the player to permit a

monetary charge to be placed against his account is the same fashion as a charge is placed for a long-distance telephone call. The PIN number and the amount of money being wagered can be applied via the keyboard 356 and the modem 634 to be received by the telephone facility 702 in the same fashion as can be accomplished the use of pushbuttons on a telephone, but at a much greater convenience than by use of the telephone. The keyboard 356 in conjunction with the computer 804 and the modem 634 enable a player to attain connection with the data facility 904 in much the same fashion as a computer terminal may be employed in the home to interrogate a computer service, such as a service providing legal, medical, travel, financial, or other materials as are currently available. By means of the authorization unit 908 which checks the PIN number, the telephone facility 702 ascertains that the player is a bona fide approved user of the telephone system.

The amount of money wagered is billed automatically by the telephone facility 702 to the bank 708 of the player, or telephone subscriber. To facilitate this billing function, the computer 804 may tally the amount of all wagers being entered by a player in response to a game show or other wagering situation presented by the central station 202 and then, upon completion of a succession of wager, present via the modem 634 the total value of the wagers to be deducted from the players account in the bank 708. If desired, an indication of payment by the player may be transmitted by the telephone facility 702 to the data facility 904 to ensure that there is no consideration of a player's wager until after payment has been made. (Col. 96, lines 19-57)

* * * * *

[B]y virtue of communication between the data facility 904 and the central telephone facility 702, different credit limits can be set for different lotteries such that the storage unit 940 is provided with credit limit data prior to conducting of a lottery or other wagering situation. A wager which exceeds the credit limit is rejected by the data facility 904, and the telephone facility 702 is directed to credit the subscriber's account in the bank 708.” (Col 97, lines 55 – 63)

Examiner's Comments on Von Kohorn

As the relevant teaching of Von Kohorn, the examiner sets forth:

“Von Kohorn disclose a system and method of playing games and rewarding successful players comprising: a data facility 904 to communicate to central telephone facility 702 to set different credit limits so that a data storage device 940 is provided with credit limit data so that any wager exceeding the credit limit is rejected by the data facility 904 (see Col. 97, line 55+).”

Upon an initial reading of Col. 97, lines 55+, it would appear that the data facility 904's function is to reject wagers which exceed "a wager limit" for "the lottery". Upon a detailed reading of Col. 96, line 5 through Col. 103, line 62, it is arguable that the "credit limit" referred to is a player's credit limit, preestablished at a "credit facility". However, weighing against such a reading is the question of why "different credit limits should be set for different lotteries" (Von Kohorn, Col. 97, lines 55+) (e.g. it is unclear why a player's credit limit should vary from lottery to lottery). Since a Von Kohorn request for credit is also a wager request, it makes more sense that "wager limits" should be set for "different lotteries", and checked, than that player credit limits should vary from lottery to lottery.

At the least, Von Kohorn is sufficiently ambiguous and obscure on this point that the examiner's reliance on Von Kohorn does not meaningfully enable any modification to Crevelt, as a starting point.

However, notwithstanding the above, even if Von Kohorn's comments in Col. 97, lines 55+ were directed to "player credit limits", Von Kohorn does not make obvious any modification of Crevelt to reach applicant's invention. In the relevant embodiment, which applicant's attorney finds, in general, in Col. 7 and in Col. 96 to Col. 103 and in figure 29, Von Kohorn teaches a private betting and financial system to serve those who want to wager on lotteries, primarily from home. The player preestablishes credit with a "credit facility". Each wager draws against the credit. A "telephone system" debits and credits the player's account and bills the player. The telephone system does not "seek approval" for wagers from the credit facility. Such checking against "player credit limit", which in applicant's and Crevelt's system is performed by the card networks, if performed at all in Von Kohorn, is performed by "data facility 904" who is given access to their private credit limit information.

Thus, even if Von Kohorn teaches checking wagers against "player" credit limits, there is no "prescreening", no first and second approval process, but rather just one credit check, analogous to that performed by the ATM networks. Combining Von Kohorn with Crevelt, thus, as the examiner proposes, at best suggests that if Crevelt established an in-house financial credit system, he could perform a traditional credit "approval" process in house and utilize a debit/credit/billing system, like a telephone service, which does not have any credit check or approval system.

Combining Von Kohorn's with Crevelt's system does not lead to "prescreening", or to a first and second approval process. Von Kohorn's alleged "profiling" is simply the

“credit” check performed by the ATM-type network. All Von Kohorn teaches, the most favorable reading to the examiner, is a credit facility system that is sufficiently “in house” that an “in house” server performs the traditional credit check. There is no “prescreening” here, no first and second approval.

In sum, the only obvious teaching one could take from Von Kohorn to apply to Crevelt is an idea (that applicant does not believe is novel with Von Kohorn) that a gaming operation could build on a private financial credit system utilizing an in-house system for approval of wagers within a player’s “credit limits” (based on a “financial standing” or “credit status”), and the system could use a commercial telephone service to perform the debiting and billing, the telephone service itself having no “approval”/“disapproval” means or function.

Motivation to Combine

Examiner’s Comments re Motivation

The examiner’s proposed modification of Crevelt, asserted as sufficient to arrive at the claimed subject matter for all claims (which applicant disputes above) is set forth as:

“In view of Von Kohorn’s teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to include well known credit limit information into the users’ preset conditions of the system of Crevelt et al as a means for regulating users’ gaming habit.”

The above statement finesses, with the word “include”, the significant structural and functional modification of Crevelt that would be necessary to reach applicant’s invention. And the above ignores the contrary teachings and motivation in Crevelt.

The examiner’s explanation of why one would have been motivated to make the proposed modification is:

“Such modification would make the system more controllable, more attractive to the general public, and more practical by allowing the customers to set up their credit limit so that the active layer could automatically prevent users from exceeding their budget plan.”

Applicant submits that generic motivation such as “make more controllable, attractive and practical”, could justify any invention. The specific changes and additions required of the primary reference to reach the instant claims are only obvious in the hindsight provided by the new invention.

We again point out that: (1) such modification of Crevelt goes against the specific teachings of Crevelt's invention, which specifically teach, and depend upon, slowing down access by any player to his/her entire bank account (but never entirely being deprived of access); and (2) the actual changes to Crevelt required to make the instant claim are extensive, including:

(a) Crevelt's POS would have to have the capability for accepting a request "to adjust the machine's preset limits" (which capability the POS of Crevelt specifically does not have); and

(b) Crevelt's Transaction Processor would have the hardware/software to (i) spot that request; (ii) access a data base, (iii) logically perform the "prescreen"; and, (iv) if approved, physically modify the machine to adjust the preset amount.

Von Kohorn neither enables nor motivates such modifications. Crevelt teaches away from such.

Individual Claims Analyzed

Preliminary Consideration: Re Motivation to Combine, Viewing References "As a Whole"

Gaming at an institution in the United States is highly regulated, both Federally, statewise, locally and tribally. Commercial electronic funds transfer systems are highly regulated, in particular by the banking regulations. Crevelt appreciates both sets of regulations above and teaches and proposes a system that operates in and under the encumbrances of both sets of regulations.

Von Kohorn, to the contrary, teaches an ad hoc, "one-off" system. It is unknown how Von Kohorn intends to comply with the various sets of Federal and state gaming and/or banking regulations. It is unclear that Von Kohorn's teachings rise to the level of such practical encumbrances. Furthermore, the Von Kohorn specification is an eighth-generation "continuation in part" which appears to have many overlays and, like a wall painted many times, it is difficult to achieve a consistent reading.

One of ordinary skill in the art of the instant invention should have a general understanding of:

(1) the commercial electronic funds transfer (EFT) system including ATM networks, card processors, card processing systems and the banking regulations governing and associated therewith;

(2) electronic games, such as electronic slot machines and the like, established at casinos, including linkages and slot accounting systems, the functions performed by slot accounting systems, the regulations of the machines both for the sake of the government and the casino, and basically how the machines operate and the restrictions under which they operate;

(3) the regulations governing gaming, including state, Federal, local and tribal, and including the concerns of such regulations, whether or not presently enacted into regulations;

(4) casino habits, tactics and policies, including player tracking, in-house lines of credit and fraud concerns;

(5) point-of-sale devices and how they function within the clearing process in the commercial card system; and

(6) a general concept of the Federal regulation of the banking and the card processing systems.

Given the foregoing, one of ordinary skill in the art (as discussed above) would have great hesitation in lifting any item from Von Kohorn and “including” it in Crevelt.

Independent Claims

Claim 1

Not only does Crevelt not teach “profiling” by the transaction processor (step 7) as the examiner admits, but Crevelt also does not teach profiling of “the” request (i.e. the request for electronic funds via the point of sale device, step 7.) Crevelt teaches, rather, a human consideration of a pre-EFT- request to humanly adjust a “preset” amount in the machine. To reach applicant’s step 7, the examiner must propose more structure changes and functionality changes than merely “including” credit limit information into Crevelt’s transaction processor. The only motivation to make the changes to fully reach applicant’s step 7 is found in applicant’s application.

Von Kohorn at best teaches checking requests for electronic funds against credit limits using an in-house data facility. (Von Kohorn’s debiting/billing facility does not have the capacity.) This is what happens for applicant and Crevelt in the ATM-type network, so they do not need Von Kohorn’s procedure. Von Kohorn does not teach or suggest profiling and authorization.

“Automating Crevelt’s casino attendant” (if that is what the examiner wants to propose) runs counter to Crevelt’s teachings and his solution to his problem, as discussed above, and still yet does not fully arrive at step 7.

Claim 8

Crevelt does not teach a transaction processor that includes “means for” prescreening a request for EFT, either in functionality or structure.

If one already operates through the ATM type networks, Von Kohorn’s data facility/credit limit information is redundant.

The only motivation to yet add Von Kohorn’s data facility structure, credit limit information and applicant’s functionality to Crevelt comes from the blueprint provided by applicant’s invention.

Claim 26

Crevelt does not teach prescreening by his transaction processor of a request for electronic funds. (step 2) (He permits prescreening by a human and an adjustment by a human of a preset limit in a machine.)

If the EFT request (of the regular preset amount) is authorized by the ATM network, the funds are delivered by Crevelt. No additional approval is required. (step 4)

Von Kohorn teaches an in-house credit check for the wager but not providing funds to a user at the entertainment machine contingent upon an approval and an authorization. (step 4)

The addition of “credit limit information” to Crevelt, per se, absent further instructions of how and when to use it, does not reach steps 2 or 4 of claim 26.

Claim 14

Neither Crevelt nor Von Kohorn teach a host processor that includes means for transmitting host funds, relating to an authorized request, to an account associated with the point-of-sale device. The examiner does not assert that they do.

Claim 24

Neither Crevelt nor Von Kohorn teach, if a request is authorized, transmitting host processor funds to an account associated with the entertainment machine. The examiner does not assert that they do.

Dependent Claims

Claim 2

Crevelt clearly teaches away from Claim 2. Crevelt will forward a request for a preset amount to the host processor even if a request to adjust the preset amount is not approved.

Von Kohorn also teaches away from Claim 2. Von Kohorn forwards a request for funds to the telephone system independently of any check performed by Von Kohorn's "data facility". If the data facility disapproves the credit, the telephone system must go back and "credit" the user for the amount debited.

Claim 25

Neither Crevelt nor Von Kohorn teach transmitting funds to a host processor account by the financial institution. The examiner does not assert that they do.

Claims 9-12 and 27-30

Claims 9 and 27

Neither Crevelt nor Von Kohorn teach transaction profiling including history lookup. The examiner does not assert that they do.

Claims 10 and 28

Neither Crevelt nor Von Kohorn teach transaction profiling including player tracking. The examiner does not assert that they do.

Claims 11 and 29

Neither Crevelt nor Von Kohorn teach transaction profiling including responsible gaming inclusion. The examiner does not assert that they do.

Claims 12 and 30

Neither Crevelt nor Von Kohorn teach transaction profiling including fraud screening. The examiner does not assert that they do.

Conclusion

Applicant, respectfully, submits that no claims are unpatentable as obvious over Crevelt in view of Von Kohorn.

Respectfully Submitted,

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Copy of Claims Involved in the Appeal
(Element numbers added in bold for convenient reference herein)

1. A method of providing money to a user at an entertainment machine in an institution, the method comprising:
 - (1) associating a point of sale device with the entertainment machine;
 - (2) placing the entertainment machine and the point of sale device in communication with an active layer;
 - (3) placing the active layer in communication with a host processor;
 - (4) placing the host processor in communication with a financial institution;
 - (5) requesting electronic funds via the point of sale device;
 - (6) forwarding the request to the active layer;
 - (7) profiling the request by the active layer and either approving or disapproving the request;
 - (8) forwarding the request to the host processor if the request is approved during profiling;
 - (9) requesting pre-authorization for the request from the financial institution; and
 - (10) providing electronic funds to the user within the institution if the request is preauthorized and profile approved.
2. A method in accordance with claim 1 wherein the request for electronic funds is not forwarded to the host processor if the request is not approved during profiling .
3. A method in accordance with claim 1 wherein the electronic funds are provided by a slot accounting system to the entertainment machine.
4. A method in accordance with claim 1 wherein the electronic funds are provided to a cashier's location in the institution.
5. A method in accordance with claim 4 wherein a representative of the institution provides funds by bringing money or gaming chips to the user.
6. A method in accordance with claim 4 wherein providing funds includes the user being instructed to go to the cashier's location to retrieve money or gaming chips.

7. A method in accordance with claim 1 wherein placing in communication includes using at least one of a wireless system, a telephone system and an internet system.

8. A system for providing money to a user at an entertainment machine through an ATM network, the system comprising:

- a. a point of sale device associated with the entertainment machine;
- b. an active layer computer , distinct from the ATM network, in communication with the POS device;
- c. an intermediate host processor in communication with the active layer computer and a financial institution;

wherein the active layer includes means for prescreening a request, the prescreening including transaction profiling.

9. The system of claim 8 wherein the transaction profiling includes history lookup.

10. The system of claim 8 wherein the transaction profiling includes player tracking.

11. The system of claim 8 wherein the transaction profiling includes responsible gaming exclusion.

12. The system of claim 8 wherein the transaction profiling includes fraud screening.

13. The system of claim 8 wherein “in communication with” includes by at least one of a wireless system, a telephone system and an internet system.

14. A system for providing money or playing credit to a user at an entertainment machine, comprising:

- (1) a plurality of point of sale devices, each associated with an entertainment machine;
- (2) an active layer in communication with the plurality of point of sale devices;
- (3) a host processor in communication with the active layer and a financial institution;
- (4) the active layer including:

(a) means for receiving authorization for a request for money or credit associated with a point of sale device and (b) means for instructing an entity associated with the point of sale device to provide money or credit relating to said authorization; and

(5) the host processor includes means for transmitting host funds, relating to an authorized request, to an account associated with the point of sale device.

15. The system of claim 14 wherein the host processor includes means for receiving funds from a financial institution relating to an authorized request.

16. The system of claim 14 wherein the entity includes the entertainment machine associated with the point of sale device.

17. The system of claim 14 wherein the entity includes an accounting system in communication with the entertainment machine associated with the point of sale device.

18. The system of claim 14 wherein the entity includes a cashier associated with the point of sale device.

19. The system of claim 14 wherein the entity includes personnel associated with the point of sale device.

20. The system of claim 14 wherein the host processor includes means for seeking pre-authorization of a request and means for receiving notice of authorization of the request.

21. The system of claim 14 wherein the active layer includes means for receiving said request from the point of sale device and means for transmitting said request to the host processor.

22. The system of claim 14 that includes an accounting system in communication with an entertainment machine and the active layer.

23. The system of claim 22 wherein active layer includes means for instructing the accounting system to instruct an entertainment machine to provide money or credit.

24. A method for providing money or credit to a user at an entertainment machine comprising:

(1) requesting electronic transfer of funds via a point of sale device associated with an entertainment machine;

(2) requesting pre-authorization for the funds from a financial institution by a host processor; and

(3) if the request is authorized:

(a) delivering funds to a user at the entertainment machine; and

(b) transmitting host processor funds to an account associated with the entertainment machine.

25. The method of claim 24 including transmitting funds to a host processor account by the financial institution.

26. A method for providing money or credit to a user at an entertainment machine via an ATM network, comprising;

(1) requesting electronic funds via a point of sale device associated with an entertainment machine;

(2) prescreening a request by an active layer computer separate from the ATM network for approval;

(3) requesting pre-authorization for the request from a financial institution by a host processor; and

(4) delivering funds to a user at the entertainment machine contingent upon approval and authorization.

27. The method of claim 26 wherein the prescreening includes transaction profiling based on history lookup.

28. The method of claim 26 wherein the prescreening includes transaction profiling based on player tracking.

29. The method of claim 26 wherein the prescreening includes transaction profiling based on responsible gaming exclusion.

30. The method of claim 26 wherein the prescreening includes transaction profiling based on fraud screening.